

# Notice of Allowability

Application No.

10/820,221

Examiner

Medina A. Ibrahim

Applicant(s)

BOCKELMAN, DONALD L.

Art Unit

1638

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephonic interview of 09/11/06.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☒ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☒ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

The request of information under 37 CFR 1.105 has been VACATED upon further consideration. The instant specification provides information regarding the breeding history and the origin of the inbred corn line 1029010. The inbred corn line 1029010 is deemed allowable. Therefore, the Office has determined that the claims drawn to F1 hybrid plants/seed derived from the inbred line 1029010 have adequate written description and are free of the prior art, since the F1 hybrid plants/seed contain the unique haploid genome of the inbred 1029010.

#### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Hanson on 09/11/06.

The application has been amended as follows:

##### In The Claims:

At claim 11, "is capable of expressing" has been replaced with ---expresses---.

At claim 16, "yield enhancement," and "improved nutritional quality, " have been deleted.

At claim 19, "genetic locus" in parts (a) to (e), has been replaced with -- conversion-- in each occurrence. Also, "one additional generation" has been replaced with ---three additional generations---.

Claim 20 (Currently amended). The method of claim 19, wherein the conversion [genetic locus] was conferred by a transgene [stably inserted into a corn genome by genetic transformation].

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: The claims are deemed free of the prior art, given the failure of the prior art to teach or reasonably suggest a maize line with all of the genetic complement and morphological traits of 1029010 as listed on Table 1 of the specification, and methods of its use in breeding. The prior art does not teach or reasonably suggest F1 hybrid of the inbred line 1029010.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **REQUIREMENT OF ALLOWANCE UNDER 37 CFR 1.801-1.809**

The Deposit Statement on page 14 of the response of 01/19/06 is deemed in accordance with 37 CFR 1.801-1.809. Since the application is otherwise in condition for allowance except for the needed deposit of seed, and since the Office has received written assurance that an acceptable deposit will be made on or before payment of the issue fee, the Office is authorized to mail Applicant a Notice of Allowance and Issue Fee

Due together with a requirement that the needed deposit be made within THREE (3) MONTHS of the mail date of this letter (see 37 CFR 1.809(c)).

As set forth in 37 CFR 1.809(c), Applicant is required to deposit 2500 seeds of the claimed plant within THREE (3) MONTHS of the mail date of this letter; thus the time for making the deposit is on or before the payment of the issue fee. Although the time period for paying the issue fee cannot be extended, the time period for satisfying the deposit requirement may be extended under the provisions of 37 CFR 1.136.

Failure to make the needed deposit of 2500 seeds will result in abandonment of the application for failure to prosecute.

Applicant is reminded that once the deposit of seed has been made, information regarding the date of deposit, description of the deposited material including number of seeds deposited, name and address of the depository, and the accession number must be added to the specification in order to comply with 37 CFR 1.809(d). In addition, the claims must be amended to replace the blank " XXXX " with the appropriate Accession Number. Amendments to the specification and the claims must be filed under 37 CFR 1.312. If these amendments are received after payment of the issue fee, these amendments must be accompanied by a petition filed under 37 CFR 1.183 to waive the requirement of 37 CFR 1.312, a fee in accordance with 37 CFR 1.17 (i), and a showing of good and sufficient reasons why the amendments are necessary and were not presented earlier, and why justice requires waiver of the rule.

#### **Contact information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Medina A. Ibrahim whose telephone number is (571)

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272-0797. The Examiner can normally be reached Monday -Thursday from 8:00AM to 5:30PM and every other Friday from 9:00AM to 5:00 PM. Before and after final responses should be directed to fax nos. (703) 872-9306 and (703) 872-9307, respectively.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anne Marie Grunberg, can be reached at (571) 272-0975.

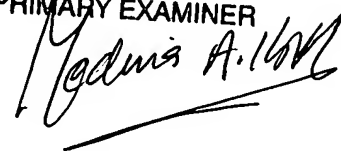
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

9/11/06

Mai

MEDINA A. IBRAHIM  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Medina A. Ibrahim', is written over the printed name and title. The signature is stylized with a large initial 'M' and a long horizontal stroke at the end.